



The Insider

www.senate.michigan.gov/switalski

Inside State Politics with State Senator Mickey Switalski Senate District 10

December 11, 2009

Welcome to the electronic version of *The Insider*. I would like to take the opportunity to thank you for your support and giving me an opportunity to represent you in the Michigan Senate. It is my sincere hope that this bi-weekly e-newsletter will keep you informed of the happenings in Lansing while staying true to the traditional style of *The Insider*. If you would like to contact me, please feel free to e-mail me at senmswitalski@senate.michigan.gov or call me at my Roseville or Lansing office. You can also meet me in person during my constituent hours, coming to a location near you. Call my office and make an appointment or just walk in. See the schedule below for details.

Mickey's Blog: Judicial Reductions Blocked Bill to Cut Two Macomb Judges Stymied

Despite a lot of time and effort, it appears that legislation that would allow Macomb and Oakland Counties to delay filling judicial vacancies is deadlocked in the Michigan Senate. I was hopeful that after overwhelming bi-partisan passage in the Michigan House, 97-4 on November 12th, the Senate would follow suit. This has not happened yet. We have only one session day left, next Thursday, before we break for the Holidays. Beginning in the New Year, the calendar will work against us, and I fear passage will become increasingly unlikely.

While the Senate approved Senate Bill 851, allowing Oakland County to freeze such an opening by a 28-5 vote, my amendment granting the same option to Macomb was defeated 15-18. I have been unable to overcome the opposition of State Senator Alan Sanborn (R-Richmond), who has strongly opposed Macomb's inclusion. We have an honest disagreement. Senator Sanborn disputes the savings estimate of \$2 million over 2 years provided by Macomb County Finance Director David Diegel, and argues that not filling the judgeships will put public safety at risk. We have had a spirited but respectful debate, which I have posted below directly from the *Senate Journal*.

Although the Senate was willing to allow Oakland County to reduce its Circuit Court by attrition, the majority of Republicans were willing to give their colleague, Senator Sanborn, the benefit of the doubt regarding conditions in Macomb; therefore, I have been unable to even bring House Bill 5457 to a vote.

I have not given up, and will continue to press the case for Macomb's desire to address its \$15 million deficit by shrinking government. The House has been most helpful by insisting that Macomb be included, and we hope that the leverage provided by Oakland's strong desire to make the same cut will force the Senate to treat both counties equally. However, this strategy could result in neither County gaining authority to freeze judicial manpower.

Based on my assessment, I have warned the County that the reductions they hoped to achieve through this initiative are now in jeopardy. Prudence dictates that we prepare alternatives. If Macomb must hold an election to replace the two retiring judges, perhaps there are other departments or employees we could cut, or the County might have to consider additional revenues.

I will continue to seek a solution to this problem. I will explore alternatives with Senator Sanborn, and I have legislation prepared that would award Macomb \$2 million in lieu of passage of House Bill 5458. If the state will not let us reduce two judges we can't afford, it should at least pay for them. In case of resistance, I have requested an Attorney General's Opinion on whether the State is violating the Headlee Amendment by preventing Macomb from implementing a hiring freeze and adding two judges without paying for their support expenses.

If my readers have any ideas, I am open to suggestion.

Senator Switalski's statement is as follows, as cited in the Senate Journal, December 10, 2009 on page 2396:

"Since my speech ended abruptly yesterday due to time limits, allow me to conclude my remarks.

I was quoting retired Judge Ken Sanborn yesterday, who was called out of retirement to act as chief judge of the probate court in Macomb County this last year. The two judges who are currently serving on the probate court have been having difficulty working together, and the State Supreme Court asked Judge Sanborn to do them a favor and try to straighten out the mess.

Judge Sanborn has done an admirable job under very trying circumstances. I and all of Macomb County and the Supremes, thank him for that. But he may have done us here in this chamber an even greater service by his suggestion about the way forward for the Macomb courts.

As quoted in the *Macomb Daily*, Judge Sanborn said that "a single judge can handle the entire probate caseload, with the help of a visiting judge to fill in for vacations and absences. That is a solution," Sanborn said of the idea. "The surviving judge might be a little upset with the increased workload, but that's what they're paid for." The State Court Administrative Office likewise supports this approach. I have nothing but admiration for Judge Sanborn's sentiments. In fact, I believe they are the mantra for Michigan extricating itself from its present economic difficulties. We all need to find a way to be more productive, more competitive, and achieve more results with less resources.

If we implement what I call the Sanborn Plan, which I believe the incoming chief judge is strongly considering, it would add a circuit court judge with the transfer of a probate judge to the circuit court. Macomb's hiring freeze could thereby be maintained and savings achieved. One of the retiring judges could be replaced by a transfer from the probate court.

Judge Sanborn's other suggestion of using visiting judges to cover vacations and absences is extraordinarily insightful. The second retirement could be absorbed by a combination of visiting judges and volunteers from temporary assignments from the district court. They are already volunteering to do that.

As you can imagine you might get tired of hearing traffic offenses every day if you're a district judge. It might be a feather in your cap to take a temporary assignment up at the circuit court and get a big case-a little change of pace. Think of it. If you could cover for the regular circuit judges, you figure three weeks of vacation times 11 judges, that's 33 weeks. Say three sick days per judge, 33 days, that's another seven weeks. You have 40 weeks that you've almost got a full-time judge right there, and that's for free.

So Senator Sanborn and I have discussed these options. We are not yet in agreement on what I call the Sanborn Plan because he is still trying to convince me of the merits of the Switalski Plan.

I will continue to work with my good colleague toward a resolution of these issues.”

Senator Switalski's statement is as follows, as cited in Senate Journal, December 9, 2009 on page 2371:

“Yesterday I talked about saving money on some legislation allowing counties to delay filling judicial vacancies. Today I wanted to address an associated issue, which is the issue of a potential backlog in the courts. Legislation is pending in each chamber to allow Macomb and Oakland to delay filling vacancies that will come up because judges have aged out of the system and have to retire. It has been pointed out that a recent report by SCAO, the State Court Administrative Office, has said that Macomb could, actually justify adding additional judges. If you look at the SCAO report, they say that Macomb could justify based on its caseload. It could justify four additional judges.

Unfortunately, the county can't afford to add additional judges, and in fact, is \$15 million in deficit and has to cut. That is the subject of the legislation that is pending in each chamber. So if we can't add, let's address the question of how to handle that backlog.

The SCAO report itself suggested that Macomb might move one of its two probate judges over to the circuit court. In addition, the SCAO report talked about the backlog in Oakland County. Let me remind members that we have already passed a bill that would allow Oakland County to not fill one of its vacancies.

Well, when the SCAO report said that based on the caseload, Macomb could justify adding four judges, they said that Oakland could add 3.7 judges. So I would say it's a similar situation, but we have already agreed to allow Oakland to reduce a judge. So this points out that the courts will have to make adjustments, and they both face similar problems.

Now, I would like to quote some of the judges themselves who are most affected by the backlog and the caseload that they would be asked to take on. So let me quote from Judge Mary Chrzanowski in Macomb County who says, “So my caseload goes up, big deal. We will continue to get the job done. Cuts are coming, and we believe they should start at the top.” So the judge-I admire her spunk-she wants to work harder and deal with the caseload. She knows that the money is not there.

Let me also quote Judge Don Miller, who is the husband of U.S. Representative Candice Miller and also a circuit court judge. He says, “Our goal is to maintain our level of service while we make these cuts. We have some innovations in mind to do exactly that.” So they believe that they can accommodate their backlog, and they have some innovations that they are going to do. As Judge Chrzanowski says, we are going to work harder; we are going to deal with it.

The *Macomb Daily* has editorialized on this saying the primary issue is whether the circuit court can operate efficiently with 11 judges, thereby saving tax dollars. Who knows the workload and what can be done to save money better than the judges themselves. Hopefully, the Michigan Legislature will also see the proposal for what it is- method of saving tax dollars by having a few do a little bit more.

But I have one last judge I want to quote on this matter, and he has recently retired, but because of problems Macomb was having in its probate court, he was asked to come out of retirement, step in and be the chief judge of probate. He did a superb job and he said, “A single judge can handle the entire probate caseload with the help of a visiting judge to fill in for vacancies and absences.” That is a solution, he says. The surviving judge might be a little upset with the increased workload, but that is what they are paid for.”

Senator Sanborn's statement is as follows, as cited in the Senate Journal, December 9, 2009 on page 2372:

In the words of my political hero Ronald Reagan, to the Senator from the 10th District, well, there you go again.

You know, *Inside Michigan Politics* yesterday came out with their conservative ratings, and once again, ladies and gentlemen, I have been rated the most conservative Senator in the state of Michigan, which should mean to you and me that if you have an idea for cost savings that doesn't threaten public safety, please bring it to me. I am going to be there leading the charge.

This is not it, though. Yesterday my colleague from the 10th District rose under Statements-my respected and learned colleague, my friend-and spoke about legislation that would cut the number of judges in Macomb County. During his comments, the Senator from the 10th District referenced my previous comments, that those supposed savings from the bill-his bill-are illusory. The Senator indicated that a document prepared by the Macomb County finance department estimates \$2 million in savings-good heavens.

What he failed to mention and didn't offer to share is that the original report shared by that same department indicated that the savings was \$3.2 million in savings. It seems that \$1.2 million disappeared between the first estimate and the second estimate. Why? The reason is simple. The first estimate grossly overestimated the savings, and when the finance department was made aware of it, they quickly came up with a different number. I am shocked. And yet my colleague finds skepticism-my skepticism-unfounded.

For those of you who haven't seen the document he waved around here yesterday, 65 percent of the operating savings included in this document comes from three areas: reduced interpreting services, reduced jury fees, and reduced defense attorney fees. These expenses are not related to the number of judges. They are a direct result of the number of cases heard, which means that the only way these savings can be accomplished is by having the court with the highest caseload and the worst backlog of cases in the entire state of Michigan hear fewer cases. It doesn't make sense. It doesn't add up.

Now I can't support denying or delaying the residents of Macomb County their day in court, and I would hope that you would not either. Oddly, the figure provided by the finance department includes only savings. Apparently, unemployment isn't their issue; nor is the cost of transitioning fewer judges or the cost of adding them back in two years. Is the transitioning for these individuals who will be hired to fill in the replacement employees who are going to be hired to fill in two years later in 2012 free? I don't think so. You are going to have to pay to have them retrained. The cost of extended jail stays, the cost of delayed hearings, the cost of paying visiting judges, and the cost of additional backlog of cases—all these factors are being ignored. The state court administrator is correct. He says that Macomb County is actually five judges short. It points out that Wayne County has five judges too many. I don't see them leading the charts there. The fact of the court reporters are unionized, the prosecutors, the clerks, and the deputies are not under the authority of the court and, therefore, not on the court's budget. I talked to Prosecutor Eric Smith and he says, "That comes out of my budget." So he does not support these cuts. These unionized employees will be laid off. No, they are going to be put into a different position. All these facts are being glossed over by the good Senator from the 10th District. The only real savings in this plan comes from laying off the judicial secretary, which the judge can do now because they are an at-will employee, and the judges' fringe benefits.

The savings are not there. If the Senator from the 10th District would take an opportunity to talk to me because I am the only one in this chamber he has not talked to, perhaps I could educate him further."

Senator Switalski's statement is as follows, as cited in the Senate Journal, December 8, 2009 on page 2351:

"I wanted to talk about a couple of bills-one bill that we have sent over to the House and one that has come over from the House. It involves delaying the filling of judicial vacancies and saving the counties a substantial amount of money. There is a bill that we sent to the House that would deal with Oakland County and one that has come over from the House to us that deals with both Oakland and Macomb.

These bills are important because they would save the counties a significant amount of money. Macomb County has a \$15 million deficit and the finance director, Mr. Diegel, has determined that these bills will save Macomb County over \$2 million over a two-year period. Macomb is planning on these savings and desperately needs this legislation, as does Oakland, and it would allow them to do what we have asked government to do everywhere in this state and that is to shrink government. They will temporarily shrink government by not filling these vacancies.

There has been some question raised about whether Macomb will really save this amount of money, and I do have the official estimate from the Finance Department in Macomb County, which I will make available to members. The finance director, Mr. Diegel, says: "We were very conservative in projecting operating expense savings of only \$79,000 per judge per year. That is in addition to the \$500,000 in personnel cost savings. It is likely that operating costs will drop even more than that, but we arrived at the \$79,000 figure based on the assumption that remaining judges would experience an increase in caseload with fewer judges on the bench.

He goes through and talks about the reductions, and he gives the salary and fringe benefit costs of the five support people who support each judge. You have a court reporter, a judicial secretary, a prosecuting attorney, a court clerk, and a deputy court officer or bailiff. All these reductions come up to \$572,000 per judge per year, which is about \$1 million a year or \$2 million over the two-year period. The operating expenses that he has been very conservative on involve things like office supplies, books, postage, robe allowance, bar dues, cell phones, insurance, telephones for the office, and MIS data service.

I will distribute this, and I think it will show members that, in fact, it does save the money. This is the guy whose job it is to make an estimate of what it will save. He has been on the job for 35 years. The Oakland County finance director came up with a similar amount for Oakland County. So you would think that the bill would save what they say. Usually a budget director will kind of underestimate what things will save because he wants to make sure that he comes in with a balanced budget.

If people out there think that they have information that shows that it will not save this much money, please, we would appreciate you pointing out exactly what we missed. Just tell us, if it is wrong, just how much it actually will save. It would be hard to believe that you could lose six employees and it would actually cost you more money.

There has also been the suggestion that perhaps if you have a union that people would bump out and take other positions, but as you know, even in a union environment when people bump, they bump out, and the person with low seniority goes out the door. There are other ways that you accomplish through attrition personnel reductions. You can have people retire or be laid off. At the end of the day, when you are eliminating jobs, you eliminate staff, and people do go out the door. They may go to other departments. The departments may try to absorb them, but if they are not getting their interdepartmental transfer or their budget is cut because their job is gone, people will go out the door, and you will get the savings.

I hope this puts to rest the debate that this does not save money. It certainly does save money. The person whose job it is to say whether it does says it saves money.”

Mickey's Ends and Notes

MICHIGAN LEGISLATURE PASSES SMOKEFREE WORKPLACE LEGISLATION

On Thursday, the Michigan Legislature voted to pass legislation that would make Michigan workplaces—including bars and restaurants—smoke free beginning in May of 2010. The legislation (House Bill 4377) would exempt casino floors and tobacco specialty businesses. Studies have shown that nearly 2/3 of Michigan voters support a workplace ban that includes bars and restaurants.

Thirty-seven states have already passed similar legislation to protect their workers from exposure to secondhand smoke. House Bill 4377 applies to all bars, restaurants and workplaces, with exceptions for the Detroit casino gaming floors, cigar bars, tobacco specialty stores, home offices, and motor vehicles.

MDCH WARNS RESIDENTS TO AVOID E-MAIL SCAM ON H1N1 VACCINE

The Centers for Disease Control and Prevention (CDC) and the Office of the Chief Information Security Officer (OCISO) Cyber Security Incident Response Team (CSIRT) have received reports of fraudulent emails referencing a CDC-sponsored State Vaccination Program for the H1N1 virus. The messages request that users create a personal H1N1 “Vaccination Profile” on the cdc.gov Web site. The messages then states that anyone who has reached the age of 18 has to have his/her personal “Vaccination Profile” on the cdc.gov site.

Readers should note that the CDC has NOT implemented a state vaccination program requiring registration on www.cdc.gov and e-mails claiming this are a scam. Residents are asked to ignore and delete such e-mails.

Users that click on the embedded link in the e-mail are at risk of having a malicious code installed on their computer system. Internet users are encouraged to take the following steps to reduce the risk of being a victim of a phishing attack:

- Do not follow unsolicited links and do not open or respond to unsolicited email messages.
- Use caution when visiting untrusted Web sites.
- Use caution when entering personal information online.

For more information, please visit www.cdc.gov/hoaxes_rumors.html.

BEWARE OF FURNACE CLEANING SCAMS WHILE WINTERIZING YOUR HOME HEATING SYSTEM

This is the time of year to get your furnace cleaned and ready for winter. The Michigan Department of Energy, Labor & Economic Growth (DELEG) offers some sensible tips so that you do not fall victim to potential scams. In the past, the DELEG Bureau of Construction Codes has been involved in cases where elderly residents have been scammed out of as much as \$30,000 in unnecessary heating and cooling repairs and equipment purchases. These situations can be avoided by knowing how to recognize questionable and potentially fraudulent contractors. The do's and don'ts are:

*Do maintain your furnace by cleaning air returns with a household vacuum cleaner and checking the filter once a month and replacing it if necessary. This will maintain efficiency and prolong the life of the furnace.

*Do get your heating system thoroughly cleaned by a reputable, licensed, local mechanical contractor a minimum of every two years.

*Do get at least three independent written estimates from licensed local mechanical contractors if a furnace repair or replacement is recommended. If you subsequently sign a contract for work, make sure it stipulates that final payment is not due until the mandatory inspection by the mechanical code enforcing agency is approved.

*Do ask to see the mechanical contractor's license and write down the contractor and license number listed on it.

*Do verify that the license is valid and issued for the proper classifications for the work he or she will be conducting for you. You can check this information by visiting the Bureau's website at <http://www.michigan.gov/bcclicense> or by calling the Bureau's Mechanical Division at (517) 241-9325.

*Don't fall for telephone solicitations that offer "low-cost" or "free" furnace cleaning. Once in the dwelling, the worker may tell the homeowners their heating system has serious problems that require immediate attention. Get a written description of the suggested work and seek a second opinion.

*Don't sign a contract just because the worker says you face possible illness or death if the furnace isn't replaced immediately. If told your furnace threatens your health, ask for a written copy of the technician's test results and call your local utility company.

*Don't hire someone who comes to your door with a Shop-Vac vacuum offering to clean your heating ducts. It will not do the job. A proper cleaning requires a high volume vacuum system and maybe even a steam process.

DTE ENERGY AND CONSUMERS ENERGY OFFER UTILITY BILL ASSISTANCE

Now that winter is here, it's important that we begin preparing ourselves and our houses for the colder weather. DTE Energy and Consumers Energy offer a number of programs to help customers with their energy bills.

Payment assistance programs offered to customers include: a medical emergencies program to postpone shutoffs in the event of a medical issue, and a shut-off protection plan to spread future bills out over the year and to include equal monthly payments on an unpaid balance in order to avoid a shut-off.

Some consumers and all senior citizens regardless of their income also qualify for DTE Energy's Winter Protection Plan. This program protects seniors and low-income customers from shutoffs between November 1 and March 31. During this period, customers must pay a portion of their estimated annual bill plus regular payments on any past-due bills. After March 31, the required bill payments will increase to cover winter bills. For more information on any of these programs, please call Consumers Energy at 800-477-5050 and DTE Energy at 800-477-4747.

Many assistance programs are available by calling 211 at United Way. Weatherization help is available for low-income residents. These programs help with caulking, weather stripping, and insulation. Another program that is available is THAW, the Heat and Warmth Fund, which helps people who are facing a shut-off and have exhausted all federal and state funding programs.

The state offers assistance with energy bills through the State Emergency Relief Program in the Department of Human Services. This program is available to DHS clients and non-DHS clients. For more information, call the Energy Assistance Hotline at 800-292-5650, or visit your local DHS office.

In addition, visit the following websites to learn more about help that is available:

DTE Energy:

<http://www.dteenergy.com/residentialCustomers/billingPayment/paymentPrograms/payAssistance.html>

Consumers Energy: <http://www.consumersenergy.com/welcome.htm>

United Way of Southeastern Michigan: www.uwsem.org/

THAW, the Heat and Warmth Fund: http://www.thawfund.org/how_help/index.html

State Emergency Relief Energy Assistance Programs:

<http://www.michigan.gov/heatingassistance/0,1607,7-215-33211-105989--,00.html>

Office Hours

*I am currently working on scheduling office hours for the upcoming year. Please stay tuned for updates on next year's office hour schedule.

Future Office Hours T.B.A.	
---	--

Mickey's TV Insider Show

Check out my TV Insider Show coming to a television station near you. Watch me interview local guests about politics, life, issues and concerns to our district.

Sterling Heights

Every Saturday and Sunday at 1 p.m.
(Comcast Channel 5/WOW Channel 10)

Utica

Every Wednesday at 9 a.m.
(Comcast Channel 5/WOW Channel 10)

Clinton Township

Last week of every month- Sat thru Thurs
(Comcast Channel 5/WOW Channel 10)

Roseville

Various Times-check local listings
(Comcast Channel 18/WOW Channel 10)

Contact My Office

Website: <http://www.senate.michigan.gov/switalski>

Email: senmswitalski@senate.michigan.gov

Lansing Office

Senator Mickey Switalski
Senate District 10
410 Farnum
P.O. Box 30036
Lansing, Michigan 48909

(866) 303-0110 toll free
(517) 373-7315
Fax-(517) 373-3126

District Office

31513 Gratiot, Suite B
Roseville, MI 48066

Monday through Friday
9:00 A.M. to 5:00 P.M.

(586) 294-0925 phone
Fax- (586) 294-0985